

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x
LUV N'CARE LTD. and ADMAR
INTERNATIONAL, INC.,

Plaintiffs,

:

- against -

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #
DATE 6/5/09
ORDER

WALGREEN CO.,

Defendant.

:

- - - - - x

CHIN, District Judge

By letter dated May 27, 2009, defendant Walgreen Co. requests a pre-motion conference to discuss its filing of a motion to strike an expert report submitted by plaintiffs a week before the close of discovery. By letter dated June 1, 2009, plaintiffs assert that they submitted their expert report "in response and rebuttal to Walgreen's own eleventh-hour disclosure of an expert, Mr. Walter McCullough." By letter dated June 2, 2009, Walgreen reports that it "does not now and never has intended [sic] to call Mr. McCullough as a fact or an expert witness."

Under the circumstances, plaintiffs' "rebuttal" expert report is stricken. There is no need for a report responding to McCullough as an expert if McCullough will not be testifying in this case. It appears that much of this dispute arises from reports generated in a Texas litigation. Those reports are not before this Court and will not be allowed.

SO ORDERED.

Dated: New York, New York
June 5, 2009


DENNY CHIN
United States District Judge